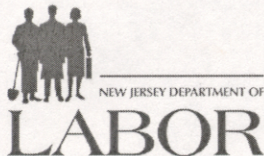


NEWS



www.nj.gov/labor

Contact: Kevin Smith
Tel: (609) 292-7832
Fax: (609) 777-3634
State of New Jersey
Department of Labor
PO Box 110
Trenton, New Jersey
08625-0110

Notice of Proposed Amendment

**Re: Proposed Amendment: N.J.A.C. 12:16-12.2
Concurrent Employment by Related Employers
Common Paymaster**

Attached please find the above-referenced matters which were published in the December 2, 2002, 2002 *New Jersey Register*.

If you have any questions, please contact Frederick S. Cohen, Regulatory Officer 1 at (609) 777-2960.

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(a)

DIVISION OF EMPLOYER ACCOUNTS

Concurrent Employment by Related Employers Common Paymaster

Proposed Amendment: N.J.A.C. 12:16-12.2

Authorized By: Albert G. Kroll, Commissioner, Department of Labor.

Authority: N.J.S.A. 43:21-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2002-428.

A public hearing on the proposed amendment will be held on the following date and at the following location:

Monday, December 30, 2002

10:00 A.M. to 12:00 noon

New Jersey Department of Labor

13th Floor Auditorium

Trenton, New Jersey

Please call the Office of Regulatory Services at (609) 292-7375 if you wish to be included on the list of speakers.

Submit written comments by January 31, 2003 to:

Frederick S. Cohen, Regulatory Officer

Office of Regulatory Services

Department of Labor

PO Box 110—13th Floor

Trenton, New Jersey 08625-0110

If you need this document in Braille, large print or audiocassette, contact the Office of Communications at (609) 292-3221, or NJ Relay (TTY) at 1-800-852-7899.

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 12:16-12.2 regarding common paymaster and related companies, establishes a regulatory framework for defining the entity which is subject to the provisions of N.J.S.A. 43:21-1 et seq., the New Jersey Unemployment Compensation Act and the New Jersey Temporary Disability Benefits Law, and helps to simplify compliance with the statute. The latter requires each employing unit to comply with certain quarterly filing requirements and the proposed amendment defines who the employing unit is in instances when a single entity owns and operates numerous related companies. Specifically, the proposed amendment provides that a single business entity can report the wages of related companies if, (1) the entity has a majority interest and control over related business entities, (2) the related entities share a general system of operation and each is organized for a common purpose or each is a coordinated part of the entire business operation, and (3) the reporting entity exercises control of central financing, common management, personnel policies, operational procedures, pricing, collections and other related operating practices. The proposed amendment thereby reduces the need to report individually for each entity when the parent company in fact is a single employing entity. Additionally, the change in reporting would conform to reporting methods presently utilized by the Federal government and New Jersey's Division of Taxation.

Moreover, proposed N.J.A.C. 12:16-12.2(d) mandates that a single entity which elects to report wages of any related entity, must inform the Division of Employer Accounts of its intent to do so at least 30 days prior to the effective quarter in which the common reporting is to commence. In addition, all entities reported in common must be identified, including employer identification numbers, legal and trade names, business locations and the type of activity conducted by each entity. Furthermore, proposed N.J.A.C. 12:16-12.2(e) directs the reporting entity to report all of the employees of the related entities, rather than limiting the reporting to classifications or categories of workers. Proposed N.J.A.C. 12:16-2.2(f) establishes that when a single entity elects to report wages of related entities, the employment experience rating of the latter will be merged into that of the former in order to determine an aggregate employment experience rating. Lastly, proposed N.J.A.C. 12:16-2.2(g) sets forth that in the event a single entity elects to report wages and pay contributions of related entities, each of the latter will remain jointly and severally liable for its share of the tax contributions.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment will produce a positive social impact since it clarifies reporting requirements for businesses that function as common paymasters. By simplifying compliance with the reporting provisions of the New Jersey Unemployment Compensation Act and Temporary Disability Benefits Law, businesses are better able to tend to their legal obligations under the Act while providing them with a decrease in the costs associated therewith.

Economic Impact

The Department believes that related companies eligible to file as a single entity will not experience any negative economic impact. In actuality, the costs associated with recordkeeping, preparing and producing quarterly reports should decrease. Multiple reports would be replaced by a single report combining the activities of individual components.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendment is not subject to any Federal requirements or standards.

Jobs Impact

The Department believes that the proposed amendment will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendment does not impose any additional burdens on the employer community and, in fact, reduces the paperwork which is now required for the reporting of tax benefit assessments and payroll accounting. While proposed N.J.A.C. 12:16-12.2(d) and (e) require a single reporting entity to relay its intent to function in that capacity to the Division of Employer Accounts, along with the identities of the entities on whose behalf it is doing so, including employer identification numbers, legal and trade names, locations and activities thereof, the cost associated therewith will be minimal. Moreover, any costs will be off-set by the savings to be derived collectively by the business entities which utilize the services of a common paymaster. Thus, both small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as well as businesses which employ more than 100 full-time employees, should benefit from the proposed amendments by a reduction in costs associated with the filing requirements in question.

Smart Growth Impact

The proposed amendment will not have an impact on the growth, development or redevelopment of the State's urban or suburban areas with regard to existing or proposed land use, protection of open space or transportation systems. Therefore, the proposed amendment will not impact the achievement of smart growth on the implementation of the State Development and Redevelopment Plan.

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Full text of the proposed amendment follows (addition indicated in boldface thus):

12:16-12.2 Common paymaster

(a)-(b) (No change.)

(c) A single entity can report the wages of related companies if all the following conditions are satisfied.

1. The reporting entity has a majority interest and control over the related companies;
2. The related entities share a general system of operation and each entity is organized for a common purpose or each is a coordinated part of the entire operation; and
3. The reporting entity exercises control of central financing, common management, personnel policies, operational procedures, pricing, collections and other related operating practices.

(d) A single entity electing to report wages of any related entities must inform the Division of Employer Accounts of its intent to report related entities. Notification thereof must be received by the Division at least 30 days prior to the effective quarter in which the common reporting is to commence. All entities reported in common must be identified, including employer identification numbers, legal and trade names, business locations and the type of activity conducted by each entity.

(e) A single entity electing to report wages of related entities, must report all the employees of the related entities and reporting cannot be limited to classifications or categories of workers.

(f) A single entity electing to report wages of related entities, will result in the employment experience of the related entities being merged into the reporting entity's experience rating in order to determine an aggregate employment experience rating.

(g) In the event that a single entity elects to report wages and pay contributions of related entities, each related entity will remain jointly and severally liable for its share of the contributions.
